

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

JAMES "JIM" TOMASIK, J. DANIEL TOMASIK,)
and LIBERTARIAN PARTY OF TENNESSEE,)
)
)
 Plaintiffs,)
)
)
v.) Case No. 3:13-01118
) Judge Nixon
MARK GOINS, Coordinator of) Magistrate Judge Griffin
Elections for the State of Tennessee; and)
TRE HARGETT, Secretary of State)
for the State of Tennessee,)
 Defendants.)
)

)

AFFIDAVIT OF JAMES "JIM" TOMASIK

I, James "Jim" Tomaszik, being first duly sworn, state as follows:

1. I am a candidate for the office of Tennessee State Representative in State House District 91 for the Special General Election to be held on November 21, 2013, and make this Affidavit on my own personal knowledge and with the understanding that it is to be used in support of Plaintiffs' Motion for Preliminary Injunction in the case of *Tomasik, et al. v. Goins, et al.*, in the United States District Court for the Middle District of Tennessee, Nashville Division, Case No. 3:13-01118.

2. I have read the facts set forth in the Complaint filed in the instant case, in which I am one of the Plaintiffs, and the facts set forth in the Motion for Preliminary Injunction and Memorandum Brief, and know them to be true and correct.

3. I am currently the Chair of the Libertarian Party of Tennessee, was selected by the Libertarian Party of Tennessee to be its candidate in the Special General Election for House District 91 on November 21, 2013, according to internal procedures and rules of the Libertarian Party of Tennessee, but will currently appear on the ballot for November 21, 2013, as an Independent

candidate since it is impossible to turn in valid petition signatures of registered voters equalling 2½ percent of the last gubernatorial vote within 90 days of the Special General Election since prior to the 90-day deadline before this Special General Election, we had less than 17 days notice so that we would have had to conduct an entire petition drive—including getting the petition forms approved—in a period of time of approximately two weeks. Of course, this is impossible inasmuch as no minor party or new political party has been able to make the 2½ percent petition signature requirement and the normal deadline during the last approximately 45 years. The petitioning requirement for minor party candidates for a Special General Election in Tennessee is much harder than the normal requirements. Therefore, while I did petition as a Libertarian and was listed by the local election commission as a Libertarian, I was told that Mark Goins changed my listing to Independent without my consent, thus, forcing my petitioning to be considered as an Independent candidate—which I am not—by gathering 47 petition signatures in order to meet the 25 petition signature requirement for an independent candidate. I do not feel this is fair to myself or to the voters in House District 91 who will be mislead on the ballot that I am an Independent candidate rather than a Libertarian candidate.

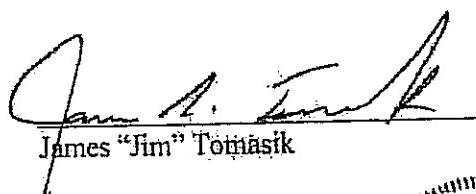
4. When I was collecting my signatures and submitting them, I was watching who else was submitting signatures. I knew within a matter of minutes after one of the Democratic primary candidates, Dwight Deberry, was successful in petitioning that he was a convicted felon. A cursory google search popped up his mug shot. The Coordinator of Elections for the State of Tennessee, Mark Goins, was observant enough to make sure I was not going to be listed as a Libertarian on the ballot, yet totally overlooked that a convicted felon had petitioned to be on the ballot for the Democratic primary to be held on October 8, 2013. This convicted felon (Dwight Deberry) was actually certified by the election commission for the Democratic primary and had to later be de-certified after the media made an issue of it. That is the reason why there were originally eight Democratic candidates for State House District 91, but only seven appeared on the ballot after Mr. Deberry was de-certified. It appears to me that Mr. Goins is more concerned with keeping me off

the ballot as a Libertarian than in keeping convicted felons off the ballot.

5. In 2012, Libertarian candidates appeared on the ballot in Tennessee as Independent candidates with Gary Johnson receiving 18,623 votes for President of the United States, Shaun Crowell receiving 20,936 votes for U.S. Senator, Daniel Lewis receiving 4,060 votes for State House District 57, and Greg Samples receiving 4,382 votes for U.S. Representative from District 2. I note that the winning Democratic candidate in the Special Primary Election for State House District 91 conducted on October 8, 2013, in unofficial returns received a total of 502 votes out of a total vote of 1,812.

6. I have personal knowledge of the facts stated in my Affidavit herein, and I understand that any false statements made herein will subject me to the penalties of perjury.

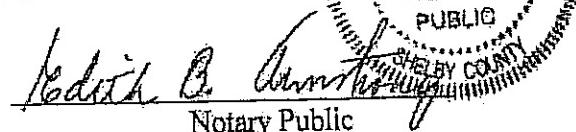
Further Affiant Sayeth Not.



James "Jim" Tomaszik

STATE OF TENNESSEE)
) ss.
COUNTY OF SHELBY)

SUBSCRIBED and sworn to before me this 14th day of October, 2013



Notary Public

My Commission Expires:

(SEAL) 7/16/14